

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ESMELING L. BAHENA,

Plaintiff,

v.

LEMON, *et al.*,

Defendants.

Case No. 1:22-cv-01585-BAM (PC)

**ORDER DIRECTING DEFENDANT TO FILE
RESPONSE TO PLAINTIFF’S MOTION FOR
EXTENSION OF TIME**

(ECF No. 43)

SEVEN (7) DAY DEADLINE

Plaintiff Esmeling L. Bahena (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s second amended complaint against Defendant Mendoza for excessive force and deliberate indifference to medical care in violation of the Eighth Amendment. All parties have consented to Magistrate Judge jurisdiction. (ECF No. 40.) This case is currently set for a video settlement conference before Magistrate Judge Stanley A. Boone on November 17, 2023 at 10:00 a.m.

On October 24, 2023, Plaintiff filed a motion for a 90-day extension of time. (ECF No. 43.) Plaintiff states that he for the past 2 months he has had a lot of difficulties visiting the prison law library to have access to copies and forms because the prison has been short on staff members. Plaintiff has also been quarantined for 10 days from September 29 to October 9, and on October 12, 2023 Plaintiff was sent to a mental health crisis bed and held for 5 days. Plaintiff

1 was then housed in Administrative Segregation for battery on a peace officer. This whole time
2 Plaintiff did not have his property or legal documents, the chance to visit the law library, to
3 respond to Defendant's answer, or to write a settlement conference letter. Plaintiff is now in Ad-
4 Seg pending the outcome of his RVR and still has not received his property, so he is not able to
5 get all of his documents together to write a settlement conference letter. Plaintiff is also trying to
6 reach out to a prop bono attorney to represent him in the settlement conference. For all of these
7 reasons, Plaintiff requests an extension of 90 days. (*Id.*)

8 Plaintiff is reminded that the Court has not granted leave for him to file a response to
9 Defendant's answer to the complaint, and therefore no extension of time is necessary. To the
10 extent Plaintiff is requesting additional time to file a response to Defendant's answer, the request
11 is denied as moot.

12 However, having considered the request, and in light of the upcoming settlement
13 conference and Plaintiff's apparent lack of access to his legal property and inability to prepare a
14 settlement conference statement while being housed in Administrative Segregation, the Court
15 finds it appropriate to obtain a response from Defendant regarding the motion.

16 Accordingly, Defendant SHALL FILE a response to Plaintiff's motion for extension of
17 time, (ECF No. 43), within **seven (7) days** from the date of service of this order.

18
19 IT IS SO ORDERED.

20 Dated: October 25, 2023

21 /s/ Barbara A. McAuliffe
22 UNITED STATES MAGISTRATE JUDGE
23
24
25
26
27
28